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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re the Matter of)
)
Review of the Prime Time) MM Docket No. 94-123
Access Rule, Section 73.658(k))
of the Commission's Rules)

**MOTION FOR EXTENSION OF TIME
TO FILE REPLY COMMENTS**

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The Coalition to Enhance Diversity (the "Coalition") respectfully requests that the Commission extend the deadline for filing reply comments in the above-captioned proceeding from May 12 to May 26, 1995. The Coalition is authorized to represent that Capital Cities/ABC, Inc., CBS, Inc., National Broadcasting Company, Inc., the Network Affiliated Stations Alliance ("NASA"), the Motion Picture Association of America, INTV, King World Productions, Inc., Viacom, Inc., and the Media Access Project support the proposed extension of the reply comment deadline. In support of this motion, the Coalition states:

1. In its Notice of Proposed Rulemaking in this matter, the Commission requested that parties "present a vigorous economic framework for analysis, supported by adequate data, that will enable us to assess the competitive effects of the rule and its efficacy in achieving both competition and non-competition-based public interest

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goals." NPRM at ¶ 3. Four weeks after the NPRM was issued, INTV, Viacom and King World requested, and received, a 60-day extension of time for filing initial comments. The purpose of the extension was to permit the petitioners "to collect and tabulate the economic data (which generally does not now exist in computerized formats), but also to analyze that data using economic and statistical models." Order Granting Extension of Time for Filing Comments and Reply Comments at ¶ 3 (Dec. 8, 1994).

2. On December 13, 1994, the Coalition filed a motion asking the Commission to order commenters who submit economic analyses to provide to other interested commenters "(a) all data relied on in the economic analysis, and (b) a copy of the materials from which such data is derived."¹ As explained in the Coalition's motion, one of the principal reasons for requesting that this data be made available at the same time as the initial comments was to minimize the amount of additional time that would be required for reply comments.

3. Initial comments were filed with the Commission on March 7, 1995. On March 17, 1995 a meeting was held among the parties and the Mass Media Bureau to discuss the Coalition's request. It was agreed at that

¹ Motion for an Order Requiring Commenters to Serve on Other Commenters All Data Relied on in any Economic Analysis They Submit to the Commission at 1 (filed Dec. 13, 1994).

meeting that data would be voluntarily exchanged, thereby obviating the need for a formal Commission ruling on the Coalition's motion.

4. It took an unexpected amount of time, however, for the parties and the FCC to work out procedures for accessing the data. Thus, while the LECG data was filed on March 28, 1995, the Coalition's economists were not provided access to the database until April 24, 1995. Moreover, one key procedural component has been that access to LECG data has been made available only at the Commission and the field office in Hayward, California. The Coalition's economic consultants have therefore had access to the data only on weekdays between the hours of 8:00 a.m. and 4:30 p.m. On some days, such as May 1, 1995, access has been further restricted because the FCC staff uses the room where the computer with the LECG data is kept for its weekly staff meetings. (We understand the same problem will occur on May 8, 1995.)

5. There also appears to have been a misunderstanding regarding certain portions of the LECG database. While the Coalition's understanding was that it specifically asked for all underlying data, INTV's understanding was that the request was limited to specific Arbitron and NAB/BCFM financial data. As a result, additional data needed for proper analysis was not filed

with the Commission until Friday, April 28, 1995, and not made available to the Coalition until yesterday.

6. Thus, under the current schedule, the Coalition has less than three weeks in which to analyze and prepare comments on data and econometric analyses that took LECG four months to prepare. Having already spent ten days working as rapidly as possible to meet the Commission's May 12, 1995, deadline for reply comments, it is now clear to the Coalition that we cannot complete our planned analysis and critique of the LECG report before May 12, 1995.

7. The Coalition is mindful that the Commission, in response to a motion filed by NASA, previously extended the reply comment date in this proceeding. It did so, however, on the assumption that the LECG data would be available to other commenters on or around April 1, 1995. See Motion of the Network Affiliated Stations Alliance for an Extension of Time to File Reply Comments at 1 (filed Mar. 24, 1995) ("It is our understanding that some of this data will be available for review at the Commission at some point next week.") The extension of time requested by NASA was designed to give commenters, including the Coalition, approximately six weeks to analyze and reply to the LECG data. The Commission granted the requested extension.

Order Granting Extension of Time for Filing Reply Comments

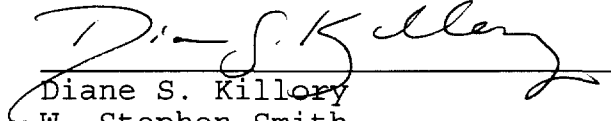
at ¶ 3 (Mar. 31, 1995). However, due to the unforeseen complications discussed above, the LECG data did not, in fact, become available until three weeks after the moving parties understood the data would be available (with some of the data not becoming available until this week). In these circumstances, extending the reply period by an additional two weeks is appropriate, reasonable and quite modest. This extension will give the Coalition and other commenters a total of only four weeks -- two weeks less than the time initially envisioned by the Commission's March 31 order -- to analyze and reply to the LECG data and econometric analyses.

8. In short, without a two-week extension, the Coalition will be irreparably harmed in its ability to analyze the LECG data. Even with a two-week extension, the Coalition will not have sufficient time to perform as complete an analysis as we initially intended. We do not, however, wish to delay the resolution of this proceeding any more than is absolutely essential. In the interest of expedition, therefore, we ask only for a two-week extension.

9. For these reasons, the Coalition respectfully requests that the deadline for filing reply comments be extended to May 26, 1995. In addition, to the extent the Commission can arrange for extended hours at its field office so that our consultants do not need to stop work at

4:30 p.m., we respectfully request that it do so. Finally, because of the fast-approaching May 12 deadline, the Coalition asks the Commission to act expeditiously on this Motion.

Respectfully submitted,


Diane S. Killory
W. Stephen Smith
MORRISON & FOERSTER
2000 Pennsylvania Avenue, N.W.
Suite 5500
Washington, D.C. 20006
(202) 887-1500

Counsel for the Coalition to
Enhance Diversity

Dated: May 3, 1995

CERTIFICATE OF SERVICE

I, Kimberly E. Thomas, do hereby certify that true copies of the foregoing **MOTION FOR EXTENSION OF TIME TO FILE REPLY COMMENTS** were mailed first class postage prepaid, unless otherwise indicated below, to the following individuals on this 3rd day of May 1995:

William F. Caton*
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Chairman Reed E. Hundt*
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Commissioner James H. Quello*
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

Commissioner Andrew C. Barrett*
Federal Communications Commission
1919 M Street, N.W., Room 826
Washington, D.C. 20554

Commissioner Rachelle B. Chong*
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

Commissioner Susan Ness*
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

Blair Levin*
Chief of Staff
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

John Nakahata*
Office of Chairman Hundt
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Maureen O'Connell*
Legal Advisor
Office of Commissioner Quello
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

Keith Townsend*
Legal Advisor
Office of Commissioner Barrett
Federal Communications Commission
1919 M Street, N.W., Room 826
Washington, D.C. 20554

Jane E. Mago*
Senior Legal Advisor
Office of Commissioner Chong
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

David Siddall*
Senior Legal Advisor
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

* Delivered by hand.

Roy J. Stewart*
Chief
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W., Room 314
Washington, D.C. 20554

James W. Olson*
Chief
Competition Division
Federal Communications Commission
2033 M Street, N.W., Room 500-H
Washington, D.C. 20554

Michael Katz*
Chief Economist
Office of Plans and Policy
Federal Communications Commission
1919 M Street, N.W., Room 822
Washington, D.C. 20554

Robert Pepper*
Chief
Office of Plans & Policy
Federal Communications Commission
1919 M Street, N.W., Room 822
Washington, D.C. 20554

William E. Kennard*
General Counsel
Office of General Counsel
Federal Communications Commission
1919 M Street, N.W., Room 614
Washington, D.C. 20554

Alan Aronowitz*
Legal Branch
Mass Media Bureau
Federal Communications Commission
2000 M Street, N.W., Room 548
Washington, D.C. 20554

Douglas W. Webbink*
Chief
Policy and Rules Division
Federal Communications Commission
2000 M Street, N.W., Room 545
Washington, D.C. 20054

Renee Licht*
Deputy Chief
Mass Media Bureau
Federal Communications Commission
1919 M Street, N.W., Room 314
Washington, D.C. 20554

David L. Donovan
Vice President
Legal & Legislative Affairs
James J. Popham
Vice President, General Counsel
INTV
1320 19th Street, N.W., Suite 300
Washington, D.C. 20036

George H. Shapiro
Marilyn D. Sonn
Arent, Fox, Kintner, Plotkin & Kahn
1050 Connecticut Avenue, N.W.
Suite 600
Washington, D.C. 20036
Counsel to Viacom Inc.

Sam Antar
Capital Cities/ABC, Inc.
77 West 66th Street
New York, NY 10023

Mark W. Johnson
CBS Inc.
1634 I Street, N.W.
Suite 1000
Washington, D.C. 20006

Richard Cotton
Ellen Shaw Agress, Esq.
National Broadcasting Company, Inc.
30 Rockefeller Plaza
Suite 1022
New York, NY 10112

Joel Rosenbloom
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037-1420
Counsel to Capital Cities/ABC, Inc.

John K. Hane
Howard Monderer
National Broadcasting Company, Inc.
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Ellen Oran Kaden
CBS Inc.
51 West 52nd Street
New York, NY 10019

Fritz E. Attaway
Motion Picture Association of America, Inc.
1600 Eye Street, N.W.
Washington, D.C. 20006

Jim Denvir
Akin, Gump, Strauss, Hauer & Feld
1333 New Hampshire Avenue, N.W.
Suite 400
Washington, D.C. 20036
Counsel to The Motion Picture Association of
America

Robert Alan Garrett
Carl A. Fornaris
Arnold & Porter
1200 New Hampshire Avenue, N.W.
Washington, D.C. 20036
Counsel to the Office of the Commissioner of
Baseball

Nathaniel F. Emmons
Andrew H. Weissman
Latrice Kirkland
Mullin, Rhyne, Emmons and Topel, P.C.
1225 Connecticut Avenue, N.W.
Suite 300
Washington, D.C. 20036
Counsel to First Media Television, L.P.

Richard B. Quinn
The Freedom Forum First Amendment
Center at At Vanderbilt University
1207 18th Avenue, South
Nashville, TN 37212

David M. Hunsaker
Denise B. Moline
Putbrese & Hunsaker
6800 Fleetwood Road, Suite 100
P.O. Box 539
McLean, Virginia 22101
Counsel to The Freedom Forum First
Amendment Center At Vanderbilt
University

Jerry Udwin
The Udwin Group
1828 L Street, N.W.
Washington, D.C. 20036

Martin P. Messinger, Esq.
Vice President & General Counsel
Westinghouse Broadcasting Company
200 Park Avenue, 37th Floor
New York, NY 10166

Stephen A. Hildebrandt
Chief Counsel
Westinghouse Broadcasting Company
1025 Connecticut Avenue, N.W.
Washington, D.C. 20036

Ramsey L. Woodworth
Wilkes, Artis, Hedrick & Lane, Chartered
1666 K Street, N.W.
Washington, D.C. 20006
Counsel to Westinghouse Broadcasting
Company

Jonathan Birkhahn
Senior Vice President of Business Affairs &
General Counsel
King World Productions, Inc.
1700 Broadway, 35th Floor
New York, NY 10019

Ian D. Volner
N. Frank Wiggins
Venable, Baetjer, Howard & Civiletti, LLP
1201 New York Avenue, N.W. Suite 1000
Washington, D.C. 20005
Counsel to King World Productions, Inc.

Jill A. Lesser
People For The American Way
2000 M Street, N.W.
Washington, D.C. 20036

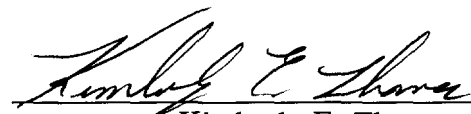
Joseph S. Paykel
Gigi B. Sohn
Andrew Jay Schwartzman
Media Access Project
2000 M Street, N.W.
Washington, D.C. 20036

Sol Schildhouse
Andrew Auerbach
1000 Potomac Street, N.W. Suite 301
Washington, D.C. 20007
Counsel to The Media Institute

Benjamin W. Tucker, Jr.
Chairman, Steering Committee
Network Affiliated Stations Alliance
c/o Retlaw Broadcasting Company
4880 North First Street
P.O. Box 5455
Fresno, CA 93755

Al DeVaney, President
UPN Affiliates Association
c/o Station WPWR-TV, Channel 50
2151 N. Elston
Chicago, IL 60614

Jere W. Glover
Chief Counsel for Advocacy
Barry Pineles
Assistant Chief Counsel
Office of Advocacy United States Small
Business Administration
409 3rd Street, S.W.
Washington, D.C. 20416


Kimberly E. Thomas